

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
LAHONTAN REGION

**ADMINISTRATIVE CIVIL LIABILITY ORDER NO. 6-98-49  
FOR  
VANDERBILT GOLD CORPORATION**

**FOR VIOLATIONS OF SECTION 13267 OF THE CALIFORNIA WATER CODE**

\_\_\_\_\_San Bernardino  
County\_\_\_\_\_

The California Regional Water Quality Control Board, Lahontan Region, (Regional Board) finds:

1. Discharger

The Vanderbilt Gold Corporation (Vanderbilt) operated the inactive Morning Star Mine. Vanderbilt violated provisions of law and orders of the Regional Board, for which the Regional Board may impose civil liability under Section 13268 of the California Water Code (CWC).

2. Facility

The Morning Star Mine (Facility) is located approximately eight miles south of Mountain Pass and Interstate 15 in San Bernardino County. The Facility includes two cyanide leach pads and one cyanide pregnant solution pond.

3. Facts

On December 1, 1997 the Regional Board Executive Officer issued a letter to Vanderbilt requiring the submittal of technical reports pursuant to Section 13267 of the CWC. The 13267 letter was issued at the direction of the Regional Board. Vanderbilt failed to submit the technical reports by the compliance date of March 1, 1998. The technical reports were ultimately submitted by Vanderbilt on May 8, 1998. As such, Vanderbilt violated Section 13267 of the CWC for 67 days.

4. Factors Affecting the Amount of Civil Liability

Pursuant to Section 13327 of the CWC, the Executive Officer of the Regional Board has considered the following factors in determining the proposed amount of the Administrative Civil Liability (ACL):

- a) the nature, circumstances, extent, and gravity of the violations;
- b) whether the discharge is susceptible to cleanup or abatement;
- c) the degree of toxicity of the discharge;
- d) the violators' ability to pay;
- e) the effect on the violators' ability to continue business;
- f) any voluntary cleanup efforts undertaken by the violators;
- g) any prior history of violations;

- h) the degree of culpability;
- i) any economic savings for the violators resulting from the violation; and
- j) other matters as justice may require.

Each of the above-listed considerations have been addressed within the Staff Report titled, *"Staff Report - Vanderbilt Gold Corporation, Morning Star Mine, Failure to Submit Technical Reports - August 1998"* (Staff Report).

5. Violations

Vanderbilt violated the following provision of the CWC:

Section 13267(b)(1) - a requirement for submission, under penalty of perjury, technical or monitoring reports as the Regional Board may require.

6. Administrative Civil Liability - California Water Code

The Regional Board may impose ACL under the following Section of the CWC:

Section 13268 (a) and (b)(1) in an amount not to exceed one thousand dollars (\$1,000) per day for each day technical or monitoring reports are not submitted in violation of Section 13267(b)(1).

7. Administrative Civil Liability Complaint Issued by the Executive Officer

The Regional Board Executive Officer issued Administrative Civil Liability Complaint No. 6-98-43 (Complaint) to Vanderbilt on August 6, 1998. The Complaint imposed ACL in the amount of \$40,000 for 67 days of violation. The Complaint amount includes staff costs incurred up to the issuance of the Complaint in the amount of \$6,298.40.

8. Amount of Administrative Civil Liability

As discussed in the Staff Report, Vanderbilt violated Section 13267 of the CWC by failing to submit timely technical reports. During the time period of March 1, 1998 to May 8, 1998 Vanderbilt violated reporting requirements for a total of 67 days. Vanderbilt is potentially liable under the CWC for a maximum ACL in the amount of \$67,000.

Based upon the evidence presented by Regional Board staff and Vanderbilt, or their representatives, at the August 6, 1998 Regional Board meeting, and based upon consideration of the factors identified in Section 13327 of the CWC, the Regional Board affirms the Complaint for the amount of \$40,000.

9. California Environmental Quality Act

This enforcement action is being taken by the Regional Board to enforce provisions of the CWC and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code § 210000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

10. Public Hearing

On August 6, 1998, at Lake Tahoe Community College, New Theatre in South Lake Tahoe, California, after due notice to Vanderbilt, the Regional Board conducted a public hearing at which Vanderbilt, or their representatives, appeared and evidence was received concerning the violations.

11. Amount of Administrative Civil Liability Affirmed by the Regional Board

At the August 6, 1998, public hearing, the Regional Board affirmed the Complaint in the amount of \$40,000 for the 67 days of violation of Section 13267 of the California Water Code. In adopting this Administrative Civil Liability Order, the Regional Board adopted the Staff Report, and its findings.

**IT IS HEREBY ORDERED** that, pursuant to Section 13268 of the California Water Code:

1. Administrative Civil Liability Complaint No. 6-98-43, which was issued by Harold J. Singer, Executive Officer, on June 15, 1998, is hereby affirmed.
2. Administrative Civil Liability is imposed on Vanderbilt in the amount of \$40,000. The total amount of \$40,000 shall become due and payable on September 7, 1998.
3. If the above Administrative Civil Liability is not received at the Regional Board's Victorville office by September 7, 1998, the Executive Officer is authorized to refer this matter to the offices of the California Attorney General for collection.

I, Harold J. Singer, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Lahontan Region, on August 6, 1998.

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HAROLD J. SINGER  
EXECUTIVE OFFICER